

BOLL WEEVIL ERADICATION LAW

LOUISIANA REVISED STATUTES TITLE 3. AGRICULTURE AND FORESTRY CHAPTER 12. PLANT DISEASES PART I. BOLL WEEVIL ERADICATION LAW

§1601. Short title

This Part may be cited as the "Louisiana Boll Weevil Eradication Law".
Acts 1992, No. 58, § 1.

§1602. Legislative findings and purpose

The legislature hereby finds and declares that the boll weevil has for many years been a public nuisance, a pest, and a menace to the cotton industry. The boll weevil has caused the destruction of vast quantities of cotton and thereby imposed severe economic losses upon cotton producers in the state. Due to the interstate nature of the boll weevil infestation, it is necessary to secure the cooperation of cotton producers and other state and federal governments to carry out a program of boll weevil suppression and eradication. The purpose of this Part is to secure the suppression or eradication of the boll weevil and to cooperate with state and federal agencies in the administration of cost-sharing programs for the suppression or eradication of the boll weevil.

Acts 1992, No. 58, § 1; Acts 1994, 3rd Ex. Sess., No. 124, § 1.

§1603. Definitions

As used in this Part, the following terms shall have the following meanings, except where the context expressly indicates otherwise:

- (1) "Affected cotton producer" means a cotton producer as defined herein and the term "affected cotton producer" as used herein shall also include landlords of share tenants and landlords of cash tenants.
- (2) "Assessment" means the amount charged to each cotton producer to finance, in whole or in part, a program to suppress or eradicate the boll weevil in the state. The charge to the producer will be calculated on a per acre basis.
- (3) "Boll weevil" means any *Anthonomus grandis* Boheman in any stage of development.
- (4) "Certificate" means a document issued or authorized by the commissioner indicating that a regulated article is not contaminated with boll weevils.
- (5) "Commission" means the Louisiana Boll Weevil Eradication Commission established in this Part.

- (6) "Commissioner" means the commissioner of the Department of Agriculture and Forestry, or his duly authorized designee.
- (7) "Cotton" means any cotton plant or cotton plant product upon which the boll weevil is dependent for completion of any portion of its life cycle.
- (8) "Cotton producer" means any person who is actively and directly engaged in the production, planting, growing, or farming of cotton for market, or otherwise actively causing cotton to be produced for market.
- (9) "Department" means the Louisiana Department of Agriculture and Forestry.
- (10) "Eradication zone" means any area or areas of the state, designated by the commissioner, where boll weevil eradication programs will be undertaken.
- (11) "Host" means any plant or plant product upon which the boll weevil is dependent for completion of any portion of its life cycle.
- (12) "Infested" means actually infested with a boll weevil or so exposed to infestation that it would be reasonable to believe that an infestation exists.
- (13) "Move" means to ship, offer for shipment, deposit for transmission by mail, receive for transportation, carry, or otherwise transport, move or allow to be moved.
- (14) "Noncommercial cotton" means any cotton intended for purposes other than processing, including but not limited to cotton planted for ornamental purposes and volunteer cotton.
- (15) "Permit" means a document issued or authorized by the commissioner to provide for the movement of regulated articles to restricted designations for limited handling, utilization, or processing.
- (16) "Person" means any individual, firm, company, corporation, partnership, society, association, or other business or public entity.
- (17) "Regulated article" means any article of any character carrying or capable of carrying the boll weevil, including but not limited to cotton plants, seed cotton, cottonseed, other hosts, gin trash, gin equipment, mechanical cotton pickers, and other equipment associated with cotton production, harvesting, or processing.

Acts 1992, No. 58, § 1; Acts 1994, 3rd Ex. Sess., No. 124, § 1.

§1604. Boll Weevil Eradication Commission

A. In accordance with R.S. 36:901, the Boll Weevil Eradication Commission is hereby created within and is transferred to the Department of Agriculture and Forestry and shall consist of eight members as follows:

- (1) Two cotton producers appointed by the commissioner from a list of six persons nominated by the Louisiana Farm Bureau Federation.
- (2) Two cotton producers appointed by the commissioner from a list of six persons nominated by the Louisiana Cotton Producers Association.
- (3) One cotton producer who does not hold membership in the Louisiana Cotton Producers Association or the Louisiana Farm Bureau Federation to be appointed by the commissioner from a list of nominees submitted by the chairman of the House Committee on Agriculture, Forestry, Aquaculture and Rural Development and a list of nominees submitted by the chairman of the Senate Committee on Agriculture, Forestry, Aquaculture and Rural Development.
- (4) The chancellor of the LSU Agricultural Center, or his designee, who shall serve as an ex officio member in an advisory capacity.
- (5) The chairman of the Louisiana Agricultural Consultants Association, or his designee, who shall serve as an ex officio member in an advisory capacity.
- (6) The commissioner, or his designee, who shall serve as an ex officio member and shall have all of the same rights and responsibilities as the appointed members.

B. The commissioner shall appoint an alternate member for each member he appoints. The alternate member shall be appointed from the same list of nominees and in the same manner as the appointed member. Any designee or alternate who attends a meeting as a representative of a member shall have the same rights, powers, and privileges, including voting rights, as the member he represents.

C. In the event that any cotton producer member of the commission ceases to be a cotton producer, that member shall not be eligible to continue membership on the commission, and his alternate member shall fill the member's vacancy, on an interim basis, until such time as the vacancy is filled as provided in Subsection G of this Section.

D. Each appointment by the commissioner shall be submitted to the Senate for confirmation.

E. Members shall serve terms concurrent with the commissioner making the appointment. The organizations authorized to make nominations for appointment to the commission shall file the initial list of nominees for appointment within thirty days after August 21,

1992. Thereafter, each organization shall file a list of nominees with the commissioner no later than June thirtieth of the year of the governor's inauguration.

F. The commissioner shall make all appointments no later than thirty days following the last day for submission of lists of nominees.

G. Whenever a vacancy of a member or alternate member occurs, the organization authorized to make nominations for appointment to the vacant position shall submit another list of nominees to the commissioner within thirty days of receipt of notice of the vacancy, and the commissioner shall appoint a nominee from the list to fill the vacancy of the member or alternate member. In the event of any failure to submit a list of nominees, the commissioner shall submit a person of his choice to the Senate for confirmation.

H. All books and records of account and minutes of proceedings of the commission shall be available for inspection and audit by the legislative auditor at any reasonable time.

I. The commissioner, upon recommendation of the commission, may appoint, subject to Senate confirmation, a director who shall be in the unclassified service of the state. The commissioner may employ all personnel necessary for the efficient and proper administration of this Part.

Acts 1992, No. 58, § 1; Acts 1994, 3rd Ex. Sess., No. 124, § 1; Acts 2003, No. 116, § 1, eff. May 28, 2003.

§1605. Cooperative agreements

The commissioner, through the commission, is authorized to carry out programs to suppress or eradicate the boll weevil in the state. The commissioner is authorized to cooperate with any agency of the federal government, any state, any other agency in the state or in the region, or any person engaged in growing, processing, marketing, handling cotton, or any group of such persons in programs to effectuate the purposes of this Part and may enter into written agreements, including cooperative endeavor agreements, to effectuate such purposes. Such agreements may provide for cost sharing, and for division of duties and responsibilities under this Part and may include other provisions generally to effectuate the purposes of this Part.

Acts 1992, No. 58, § 1; Acts 1994, 3rd Ex. Sess., No. 124, § 1.

§1606. Entry of premises; eradication activities; inspections

A. The commissioner may enter cotton fields, cotton processing facilities, any means of conveyance within this state, and any other property or premises, other than dwellings, to inspect for boll weevil infestations, to examine and copy records, and to carry out suppression or eradication activities, including but not limited to treatment with

pesticides, sampling, monitoring, and destruction of growing cotton or other host plants, as may be necessary to carry out the provisions of this Part.

B. In circumstances not covered by Subsection A of this Section, the commissioner may apply to the district court for the parish in which the entry is to occur for a warrant or warrants authorizing the right of entry to any dwelling for the purpose of carrying out the provisions of this Section or other activities authorized by this Part.

C. The commissioner may issue subpoenas to compel the attendance of witnesses or the production of records or things anywhere in the state at a deposition or at a hearing before the commission for the purposes of carrying out the provisions of this Part.

Acts 1992, No. 58, § 1; Acts 1994, 3rd Ex. Sess., No. 124, § 1.

§1607. Reports

Every person growing cotton in the state shall furnish to the commissioner, on forms specified by the commissioner, such information as the commissioner may require concerning the size and location of all commercial cotton fields and of noncommercial patches of cotton grown as ornamentals or grown for any other purposes.

Acts 1992, No. 58, § 1; Acts 1994, 3rd Ex. Sess., No. 124, § 1.

§1608. Quarantine; rules and regulations

A. The commission may adopt rules and regulations concerning quarantines including procedures for quarantining, the storage or other handling of regulated articles, and the movement of regulated articles into or from quarantined areas.

B. The commission shall determine when such action is necessary, or appears reasonably necessary, to prevent or retard the spread of the boll weevil.

C. The commission may adopt rules and regulations governing the movement of articles from other states or portions thereof into this state when such state is known to be infested with the boll weevil.

D. The adoption of all rules and regulations shall be done in accordance with the Administrative Procedure Act and sound principles of quarantine.

Acts 1992, No. 58, § 1; Acts 1994, 3rd Ex. Sess., No. 124, § 1.

§1609. Eradication zones; participation in eradication program; penalty fees

A. The commission may designate by rule or regulation, one or more areas of the state as eradication zones where boll weevil eradication programs will be undertaken.

B. The commission may adopt rules and regulations regarding areas where cotton cannot be planted within an eradication zone when there is reason to believe it will jeopardize the success of the program or present a hazard to public health or safety.

C. The commission may adopt rules and regulations prohibiting the planting of noncommercial cotton in such eradication zones, and requiring that all cotton producers of commercial cotton in the eradication zones participate in a program of boll weevil eradication, including payment of assessments, as prescribed in the rules and regulations. Notice of such prohibition and requirement shall be given by publication for one day each week for three successive weeks in a newspaper having general circulation in the affected area.

D. The commission may set, by rule or regulation, a reasonable schedule of penalty fees to be assessed when cotton producers in designated eradication zones do not meet the requirements of rules or regulations adopted by the commission with respect to reporting of acreage and participation in the payment of assessments as prescribed by regulation. Such penalty fees shall not exceed a charge of twenty-five dollars per acre per year.

E. When a cotton producer fails to meet the requirements of rules and regulations adopted by the commission, the commissioner may destroy cotton in eradication zones which is not in compliance with such rules and regulations, provided notification of such proposed action by the commissioner, not less than twenty-one days prior to such action being taken, has been properly filed and maintained in accordance with the central registry provisions of R.S. 3:3651 et seq., and any secured party of any cotton producer has been notified by the commissioner of such proposed action by registered or certified mail, return receipt requested, within said delay. Costs incurred by the commissioner shall be assessed against the cotton producer.

Acts 1992, No. 58, § 1; Acts 1994, 3rd Ex. Sess., No. 124, § 1.

§1610. Destruction or treatment of cotton in eradication zones

A. The commissioner may destroy or, at his discretion, cause to be treated with pesticides, volunteer or other noncommercial cotton and may establish procedures for the purchase and destruction of commercial cotton in eradication zones when the commissioner deems such action necessary to effectuate the purposes of this Part.

B. No payment shall be due from or made by the commissioner to anyone, including the cotton producer, owner, or lessee for the destruction or injury of any cotton which was planted in an eradication zone after publication of notice as provided in this Part, or was otherwise handled in violation of this Part, or the rules and regulations adopted under the provisions of this Part.

C. The commissioner shall pay for losses resulting from the destruction of cotton which was planted in such zones prior to publication of such notice.

Acts 1992, No. 58,§ 1; Acts 1994, 3rd Ex. Sess., No. 124,§ 1.

§1611. Rules and regulations

A. The commission may adopt rules and regulations prohibiting or restricting the pasturage of livestock, entry by persons, and location of honeybee colonies or other activities affecting the boll weevil eradication program in any premises in an eradication zone which have been or are to be treated with pesticides or otherwise treated to cause the eradication of the boll weevil, or in any other area that may be affected by such treatments.

B. The commission may adopt such other rules and regulations as it deems necessary to further effectuate the purposes of this Part. The adoption of all rules and regulations under the provisions of this Part shall be done in accordance with the Administrative Procedure Act.

Acts 1992, No. 58,§ 1.

§1612. Penalties

A. Any person who violates any of the provisions of this Part or the rules or regulations adopted under the provisions of this Part, or who alters, forges, or counterfeits, or uses without authority, any certificate or permit or other document provided for in this Part or in the rules or regulations adopted under the provisions of this Part, or who, except in compliance with the rules or regulations adopted by the commission, moves any regulated article which the commissioner found is infested by the boll weevil into this state from any other state shall be subject, in addition to any unpaid assessments or other unpaid fees associated with the eradication program, to a civil penalty of not more than five thousand dollars for each act of violation and for each day of violation. Each day on which a violation occurs shall be a separate offense.

B. Penalties may be assessed only by a ruling of the commissioner based upon an adjudicatory hearing held in accordance with the provisions of the Administrative Procedure Act.

C. In addition to civil penalties, the commissioner may assess the proportionate costs of the adjudicatory hearing against the violator. The commissioner, by rule, shall determine the amount of costs to be assessed.

D. The commissioner may institute civil proceedings to enforce his rulings in the district court for the parish in which the violation occurred.

E. The commissioner may institute civil proceedings seeking injunctive relief to restrain and prevent the violation of the provisions of this Part, or of the rules and regulations

adopted under the provisions of this Part, in the district court for the parish in which the violation occurred.

Acts 1992, No. 58, § 1.

§1613. Referendum; assessments

A. At the request of the commission, the commissioner shall call a referendum among affected cotton producers on the question of whether an assessment shall be levied upon cotton producers in the eradication zone or zones to offset, in whole or in part, the cost of boll weevil suppression or eradication programs, including but not limited to all costs of any regulatory and enforcement activities of the department, authorized by this Part or any other law of the state. Such a referendum may be held on a regional basis.

B. The assessment levied under this Part shall be based upon the number of acres of cotton planted in the eradication area. The amount of the assessment, the period of time for which it shall be levied, how it shall be levied, and when it shall be paid shall be established by the commission by rules and regulations adopted in accordance with the Administrative Procedure Act.

C. All persons who were affected cotton producers in the calendar year prior to the referendum shall be entitled to vote in any such referendum and the commission shall determine any questions of eligibility to vote.

D. Each affected cotton producer shall be provided a ballot upon which to cast a vote for or against the boll weevil suppression or eradication program.

E. If two-thirds of those voting vote in favor of the assessment then the assessment shall be collected by the commissioner on behalf of the commission from the cotton producers.

Acts 1992, No. 58, § 1; Acts 1994, 3rd Ex. Sess., No. 124, § 1; Acts 1995, No. 299, § 1, eff. June 14, 1995; Acts 1997, No. 7, § 1.

§1614. Conduct of referendum; subsequent referendum

A. The arrangements for and management of any referendum held under this Part shall be under the direction of the commission. The commission shall bear all expenses incurred in conducting the referendum, to include furnishing the ballots and arranging for the necessary poll holders.

B. In the event any referendum conducted under this Part fails to receive the required number of affirmative votes, the commissioner, at the request of the commission, shall call other referendums or a re-vote of the same referendum.

C. After the passage of any referendum, the affected cotton producers, upon petition by one-third of the cotton producers within a designated eradication zone, shall be allowed, by subsequent referendums, to vote on whether to modify or eliminate the assessments. Passage of the question called in any subsequent referendum requires that a two-thirds majority of those voting approve the question. All the requirements for an initial referendum must be met in subsequent referendums.

D. If any assessment is modified or eliminated for any reason, then all assessments approved, levied, or otherwise collectible under this Part on the last date prior to any such modification or elimination of assessments taking effect shall remain valid and collectible as necessary to pay the financial obligations of the commission, until the financial obligations of the commission incurred in regard to that eradication zone are paid in full.

Acts 1992, No. 58, § 1; Acts 1994, 3rd Ex. Sess., No. 124, § 1; Acts 2003, No. 138, § 1, eff. May 28, 2003.

§1615. Boll Weevil Eradication Fund; disposition of funds

A. All assessments, fees, penalties, and other funds received under the provisions of this Part shall be disposed of in accordance with the following provisions:

(1) All assessments, fees, penalties, and all other funds received by the commission under the provisions of this Part, subject to the exceptions contained in Article VII, Section 9 of the Constitution of Louisiana, shall be deposited immediately upon receipt into the state treasury and shall be credited to the Bond Security and Redemption Fund.

(2) Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer, prior to placing the remaining funds in the state general fund, shall pay an amount equal to the total amount of funds paid into the state treasury by the commission under the provisions of this Part into a special fund which is hereby created in the state treasury and designated as the Boll Weevil Eradication Fund.

(3) All unexpended and unencumbered monies in the fund at the end of each fiscal year shall remain in the Boll Weevil Eradication Fund. The monies in the fund shall be invested by the treasurer in the same manner as monies in the state general fund. All interest earned on monies from the fund invested by the state treasurer shall be deposited in the fund.

B. Subject to appropriation, the monies in the fund shall be used for the following purposes:

(1) To provide for the expenses of the program established by this Part, as determined by the commission.

(2) To fund any and all costs related to the eradication of boll weevils, utilizing any or all powers granted to the Louisiana Agricultural Finance Authority.

C. The Louisiana Agricultural Finance Authority, on behalf of the commission or commissioner, may fund the anticipated funds appropriated from the Boll Weevil Eradication Fund, and fees, assessments, penalties, and funds excepted from deposit into the state treasury pursuant to Article VII, Section 9 of the Constitution of Louisiana into revenue bonds or other evidence of indebtedness for the purpose of financing the costs of the programs established in this Part, including without limitation any and all costs related to the eradication of boll weevils in any or all eradication zones. The Louisiana Agricultural Finance Authority may pledge those funds to secure the repayment of revenue bonds or other evidence of indebtedness issued by the Louisiana Agricultural Finance Authority in connection with this Part or to secure any agreement entered into in connection with the issuance of revenue bonds or other evidence of indebtedness for those purposes.

D. If fees, penalties, assessments, or funds are pledged by the Louisiana Agricultural Finance Authority to secure the repayment of revenue bonds or other evidence of indebtedness or are pledged to secure any other agreement entered into in connection therewith as permitted by this Part, the assessments levied at the time of delivery of the bonds or other evidence of indebtedness shall not be reduced until the bonds or other evidence of indebtedness have been repaid.

Acts 1992, No. 58, § 1; Acts 1994, 3rd Ex. Sess., No. 124, § 1.

§1616. Failure to pay assessments

A cotton producer who fails to pay, when due and upon reasonable notice, any assessment levied under this Part, shall be subject to a per acre penalty as provided for by rules and regulations, in addition to the assessment.

Acts 1992, No. 58, § 1; Acts 1994, 3rd Ex. Sess., No. 124, § 1.

§1617. Liens

A. The commissioner shall have a lien on cotton, or its proceeds, for the payment of assessments under this Part, which shall be of equal dignity with liens for ad valorem property taxes in favor of the state, provided notification of:

(1) the name and address of each cotton producer subject to an assessment within fifteen days after determination thereof,

(2) the imposition of any penalty and the name and address of the cotton producer subject thereto within ten days after the determination thereof, and

(3) the date and location of any proposed execution or foreclosure action applicable to any cotton by a sheriff or the commissioner not less than twenty-one days prior to any sale or other disposition of the cotton, have been properly filed and maintained in accordance with the central registry provisions of R.S. 3:3651 et seq., and any secured party of any cotton producer has been notified by the commissioner of all actions described in (2) and (3) above by registered or certified mail, return receipt requested, within said delays. The commissioner is authorized to issue executions for the collections of such assessments in like manner as executions are issued for ad valorem property taxes due the state. It shall be the duty of each and every sheriff of this state and their lawful deputies, upon request of the commissioner, to levy and collect such executions and to make their return thereof to the commissioner in like manner as such tax executions are levied and return thereof made to parish tax collectors and tax commissioners; however, the commissioner shall be authorized to levy and collect his own executions. The commissioner may enforce the lien on cotton in the manner provided by law for enforcement of liens.

B. In the event that revenue bonds or other evidence of indebtedness are issued by the Louisiana Agricultural Finance Authority to finance the costs of programs established by this Part, the commissioner, or the Louisiana Agricultural Finance Authority on behalf of the commissioner, may pledge amounts collected in connection with the lien created by Subsection A of this Section to secure such revenue bonds or other evidence of indebtedness.

Acts 1994, 3rd Ex. Sess., No. 124, § 1; Acts 2003, No. 138, § 1, eff. May 28, 2003.